

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
Eastern Division**

Gerald A. Berry,

Plaintiff

V.

John E. Potter, Postmaster General of
the United States Postal Service and American
Postal Workers Union and American Postal
Workers Union Local 7011,

Defendants.

Case No. 07CV6282
Judge Der-Yeghiayan

**DEFENDANT AMERICAN POSTAL WORKERS UNION’S
MOTION TO DISMISS**

Defendant American Postal Workers Union, AFL-CIO (“APWU”), respectfully requests that this Court dismiss plaintiff’s complaint in accordance with Rule 12(b)(6) of the Federal Rules of Civil Procedure. Dismissal of the complaint is appropriate because plaintiff has failed to allege facts sufficient to establish a cause of action for which relief may be granted. Although the plaintiff’s complaint contains conclusory allegations, it lacks facts supporting, or even suggesting, that the APWU or Local 7011 breached the duty of fair representation.

This motion is supported by the accompanying Memorandum of Law. A proposed Order is attached for the Court's consideration.

Dated: February 13, 2008

Respectfully submitted,

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